



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provides limited government** – The bill will create a new committee, chaired by the Lieutenant Governor, to develop the application and criteria for the Reusable Space Vehicle Industry Prize.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

The State Board of Administration (SBA) is created in Art. IV, s. 4 (e) of the State Constitution. Its members are the Governor, the Chief Financial Officer, and the Attorney General. The board derives its powers to oversee state funds from Art. XII, s. 9 of the State Constitution. The SBA has responsibility for oversight of the Florida Retirement System (FRS) Pension Plan and the FRS Investment Plan, which represent approximately \$140 billion, or 76 percent, of the \$184 billion in assets managed by the SBA as of June 30, 2007. The Pension Plan is a defined benefit plan and the Investment Plan is a defined contribution plan that employees choose in lieu of the Pension Plan. The SBA also manages 33 other investment portfolios, with combined assets of \$44 billion, including the Florida Hurricane Catastrophe Fund (CAT Fund), the Florida Lottery Fund, the Florida Pre-Paid College Plan, and various debt-service accounts for state bond issues.

Investment decisions for the pension plan and several of the other funds are made by investment managers hired for those purposes by the SBA and their recommendations are reviewed by the SBA and its staff. By statute, the State of Florida has adopted federal fiduciary standards for management of the FRS and the other funds. The Employee Retirement Income Security Act of 1974 (ERISA) is regulated by the U.S. Department of the Treasury and is the Florida standard for management of public funds. The SBA trustees and all fiduciaries who manage Florida funds are bound by law to follow the standards established in ERISA, even though government-sponsored plans are not required by federal law to adhere to its provisions. The SBA investment managers also are contractually bound to follow all federal and state laws in performance of their services to the state.

##### *The Florida Retirement System (FRS) Pension Plan*

The FRS Pension Plan is the leading pension fund in the nation, according to a February 2007 ranking by Standard & Poor's rating service; the ranking is based on the fact that Florida's fund has the highest funded ratio of any U.S. public pension fund, at 107.3 percent. The national average is 81.8 percent. Florida's funded ratio means not only is the pension plan fully funded, but that it has more assets than liabilities. Seventy-one percent of the source of retirement plan benefits comes from investment earnings, and only 28 percent from employer contributions (which are tax dollars). The Florida Retirement System was created to provide a program offering retirement, disability, and survivor benefits for participating public employees. Among the SBA's statutory provisions is s. 215.47, F. S., which creates the "legal list" of authorized investments and their limits, in which the SBA is authorized to invest. Section 215.475, F.S., provides that the SBA must have an Investment Policy Statement for the FRS, approved by the trustees, to govern the authorized investments and their objectives, as well as the evaluation criteria to be used to measure the performance of the investments. The SBA does not have a plan for specifically investing in "economically targeted investments," or ETIs, but does consider investment opportunities that meet the investment goals and objectives as outlined in the policy statement.

According to SBA staff, if an investment that fit the definition of a technology and growth investment was presented for review, under current law it could be selected based on the legal list of authorized investments under s. 215.47, F.S., compliance with the fiduciary standards of care as provided in s.

215.47(9), F.S., and the guidelines of the Investment Policy Statement. The SBA analysis indicates that the pension plan has holdings in assets that meet a general definition of these types of investments.

#### *Economically targeted investments (ETIs)*

Section 1104 of Title 29, U.S. Code defines a fund manager's fiduciary duties and states that pension funds must be managed for the exclusive purpose of (1) providing benefits to participants and their beneficiaries; and (2) defraying reasonable expenses of administering the plan."

Technology and growth investments as defined in this bill are often referred to as "economically targeted investments." Many general definitions of ETIs exist. The U.S. General Accounting Office (GAO) has defined ETIs in the following way:

"ETIs are generally defined as investments selected for the economic benefits that they create for the public in addition to the investment return to plan participants. Investments in, for example, community development and infrastructure projects may create benefits such as construction of affordable housing, job creation or retention, or sales and tax revenue generation."

#### *The next generation of space craft for human flight*

In early 2004, President Bush and the National Aeronautics and Space Administration (NASA) announced a new "Vision for Space Exploration" that will send humans beyond Earth orbit for the first time since 1972. Consequently, the Space Shuttle program is scheduled to end in 2010 and the next phase of human space flight, called Constellation, will likely launch after 2015. During this five year period, NASA is soliciting private companies to provide crew and cargo services for the International Space Station through its Commercial Orbital Transportation Services (COTS) program. The prevailing belief is that Florida is facing a potential reduction to our position as the premier location for space exploration and a potential loss of a highly skilled workforce that has been associated with the shuttle program.

In 2006, the Legislature created Space Florida within Chapter 331, Florida Statutes, as the successor organization to the Florida Space Authority, the Florida Space Research Institute and the Florida Aerospace Finance Corporation. Space Florida is responsible for fostering the growth and development of a sustainable and world-leading aerospace industry in this state. One action in Space Florida's strategic plan is to broaden the State's presence in the space industry beyond launch activity to include the R&D, design, manufacturing, assembly, testing, launch, and servicing of space vehicles.

The Ansari X PRIZE was modeled after the Orteig Prize, won by Charles Lindbergh in 1927 for being the first to fly non-stop from New York to Paris. On October 4, 2004, the X PRIZE Foundation awarded the largest prize in history, the \$10 million Ansari X PRIZE, to Mojave Aerospace Ventures for the flight of SpaceShipOne.

### **Effect of Proposed Changes**

#### *Economically Targeted Investments*

The bill provides the SBA with the authority to invest no more than 1.5 percent of the net asset value of any fund in technology and growth investments of businesses domiciled in this state or businesses whose principle address is in this state. In addition, the bill provides for a definition of technology and growth investments, including but not limited to space technology, aerospace and aviation engineering, computer technology, renewable energy, and medical and life sciences. It also requires the SBA to include in their annual report to the Legislature the beginning and ending asset values and changes and sources of changes in the asset value for technology and growth investments within the Florida Retirement System Trust Fund.

The bill increases from 5% to 10% the allowable amount of alternative investments, alternative investment vehicles or in securities or investments that are not publicly traded and are not otherwise authorized by this section.

The bill requires the Office of Policy and Budget to perform an annual review of technology and growth investments made by the SBA including the direct and indirect economic benefits to the state resulting from such investments.

*Reusable Space Industry Prize Program*

The bill creates the Reusable Space Vehicle Industry Prize Program within the Office of Tourism, Trade and Economic Development. The program will award a cash prize of \$2 million in state funds and funds provided by private sponsors, to the firm or individual in the private sector providing the most significant advancements within the reusable space vehicle industry from January 1, 2009 through January 1, 2014. The Lieutenant Governor of Florida will be the chair of the program and is responsible for appointing a committee. The committee will adopt an application and criteria for the awarding of the program prize. The application is required to be posted onto the OTTED website before January 1, 2009. The bill requires the program to mirror the Ansari X Prize program as awarded by the X PRIZE FOUNDATION on November 6, 2004.

C. SECTION DIRECTORY:

**Section 1:** Amends s. 215.44, F.S., to require the SBA to provide in their annual report the beginning and ending asset values and changes and sources of changes in the asset value for technology and growth investments within the Florida Retirement System Trust Fund.

**Section 2:** Amends s. 215.47, F.S., to include a subsection allowing the SBA to invest no more than 1.5 percent of the net asset value of any fund in technology and growth investments if the investment is consistent with and does not compromise or conflict with the fiduciary obligations of the board to a fund's participants, members, or beneficiaries and increases the maximum amount of alternative investments that can be made by the SBA.

**Section 3:** Creates the Reusable Space Vehicle Industry Prize program within the Office of Tourism, Trade and Economic Development, provides for a one-time cash prize, creates the committee that will develop the application and criteria, names the Lieutenant Governor as the chair of the committee, and requires the program to mirror the Ansari X Prize program.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There would be increased economic impact on the private sector related to the investments made in technology and growth investments. The impact could be greater in sectors and industries traditionally

considered likely to stimulate the regional and national economies, including the targeted industries of our economic development incentive programs and those listed high-impact performance industries. Some specific business sectors named in the bill language include aerospace and aviation engineering, computer technology, renewable energy, and medical and life sciences. However, since the language does not limit investments to these specific business sectors, other sectors may also see an economic impact.

Additionally, the Reusable Space Vehicle Industry Prize Program has the potential to have an economic impact on the space and aerospace industry and related supplier businesses. However, this will depend on the requirements developed by the committee and to what extent the program requires activities being evaluated and counted toward the award be conducted in the state.

**D. FISCAL COMMENTS:**

The bill does not include any appropriation for the 2008-09 fiscal year. However, there will be a need for an appropriation of \$2 million in nonrecurring state funds upon awarding of the Reusable Space Vehicle Industry Prize. No funding source is identified in the bill.

Also, it is not clear what the impact, if any, of allowing the SBA to invest in technology and growth investments will be on the amount of employer contributions to the state pension fund (tax payer dollars).

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

**B. RULE-MAKING AUTHORITY:**

The bill provides OTTED the authority to adopt rules relating to the Reusable Space Vehicle Industry Prize.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None

**D. STATEMENT OF THE SPONSOR**

No statement submitted.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On Friday April 18, 2008, the Economic Expansion and Infrastructure Council passed a strike-all amendment that did the following:

- Removes legislative findings and policy language that prudent and sound economically targeted investments of funds in the FRS Trust Fund in business endeavors that have potential for high-growth and high-wage jobs

will provide significant benefits to residents of this state and a variety of economic sectors if the investments do not compromise or conflict with the fiduciary obligations of the board to a fund's participants, members, or beneficiaries.

- Changes the term from “Economically Targeted Investments” to “Technology and Growth Investments” and added space technology as an example of a technology and growth investment
- Increased the target from 1% to 1.5% for investments from the FRS Trust Fund in technology and growth investments
- Increases the cap on alternative investments in the FRS Trust Fund from 5% to 10%
- Requires OPPAGA, not SBA, perform the analysis on the direct and indirect economic impact of technology and growth investments
- Removes permissive language allowing the SBA to offer opportunities to small, state-based investment management firms to facilitate their development and growth
- Reduces the amount of state funds included in the cash prize for the reusable space vehicle industry prize program from \$20 million to \$2 million, and leaves open the amount of privately secured funds that may be included